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12 and for other Defendants appear on signature page*

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 **In Re DRAM ANTITRUST LITIGATION**

Master File No. M-02-1486 PJH

MDL. No. 1486

Case No. 05-02472

**STIPULATION AND [PROPOSED]
ORDER REGARDING STAY OF
INDIRECT PURCHASER
PROCEEDINGS BEFORE THIS COURT
PENDING NINTH CIRCUIT REMAND**

20 This Document Relates to:
21 *All Indirect-Purchaser Cases*

24 **WHEREAS**, on March 28, 2008, this Court granted Indirect-Purchaser Plaintiffs'
25 ("Plaintiffs") Motion pursuant to Title 28, USC § 1929(b) ("Section 1292(b) Petition") for
26 Certification for Interlocutory Appeal of its June 1, 2007 and January 29, 2008 Orders dismissing,
27 with prejudice, all antitrust damage claims under fifteen states' antitrust statutes for purchasers of
28 computers containing DRAM modules; and

STIPULATION AND [PROPOSED] ORDER REGARDING STAY OF INDIRECT PURCHASER PROCEEDINGS
BEFORE THIS COURT PENDING NINTH CIRCUIT REMAND

1 **WHEREAS**, Plaintiffs filed a Section 1292(b) Petition with the United States Court of
2 Appeals for the Ninth Circuit on April 7, 2008; and

3 **WHEREAS**, on April 17, 2008, this Court, pursuant to the parties' stipulation, ordered an
4 interim stay of these proceedings pending the Ninth Circuit's ruling on the Section 1292(b) Petition;
5 and

6 **WHEREAS**, on June 26, 2008 the Ninth Circuit granted the Section 1292(b) Petition; and

7 **WHEREAS**, the current briefing schedule in the Ninth Circuit extends through May 2009;
8 and

9 **WHEREAS**, the briefing on class certification before this Court has been stayed because
10 the composition of the indirect-purchaser class will be substantially changed if purchasers of
11 computers containing DRAM are included in this action; and

12 **WHEREAS**, the parties agree to continue to stay the indirect purchaser proceedings in
13 this Court until the Ninth Circuit decides the interlocutory appeal and remands this matter to this
14 Court.

15 **IT IS HEREBY STIPULATED** by and between the parties hereto, subject to approval by
16 this Court, to continue to stay all proceedings in this indirect purchaser action in this Court during the
17 period that the Ninth Circuit is considering Plaintiffs' appeal.

18 Dated: October 29, 2008

19 So Stipulated:

20 By: _____ /s/
21 JOSEF D. COOPER (S.B. 53015)
22 TRACY R. KIRKHAM (S.B. 69913)
23 JOHN J. BOGDANOR (S.B. 215830)
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BEFORE THIS COURT PENDING NINTH CIRCUIT REMAND

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6 Counsel For Defendant Micron Technology, Inc. and
 7 on behalf of all other Defendants

8 Additional Defendants and Counsel:

<p>9 ROBERT B. PRINGLE PAUL R. GRIFFIN JONATHAN SWARTZ THELEN LLP 10 101 Second Street, Suite 1800 San Francisco CA 94105-3601</p> <p>11 <i>Attorneys for Defendant NEC Electronics America, Inc.</i></p>	<p>12 JAMES G. KREISSMAN HARRISON J. FRAHN IV GABRIEL N. RUBIN SIMPSON THACHER & BARLETT LLP 2550 Hanover Street Palo Alto, CA 94304</p> <p>13 <i>Attorneys for Defendants Elpida Memory, Inc., and Elpida Memory (USA) Inc.</i></p>
<p>14 STEPHEN V. BOMSE MICHAEL J. SHEPARD DAVID C. BROWNSTEIN ORRICK, HERRINGTON & SUTCLIFFE 15 LLP 16 The Orrick Building 405 Howard Street San Francisco, CA 94105-2669</p> <p>17 <i>Attorneys for Defendants Mosel Vitelic Inc., and Mosel Vitelic Corporation</i></p>	<p>18 KENNETH R. O'ROURKE STEVEN H. BERGMAN O'MELVENY & MYERS LLP 400 S. Hope Street Los Angeles, CA 90071</p> <p>19 IAN SIMMONS O'MELVENY & MYERS LLP 1625 Eye Street, NW Washington, D.C. 20006-4001</p> <p>20 <i>Attorneys for Defendants Hynix Semiconductor Inc. and Hynix Semiconductor America Inc.</i></p>
<p>21 KAYE SCHOLER LLP ATON ARBISSER, Bar Number 150496 JULIAN BREW, Bar Number 150615 JOSHUA STAMBAUGH, Bar Number 23 233834 1999 Avenue of the Stars, Suite 1700 Los Angeles, California 90067 Telephone: (310) 788-1000 Facsimile: (310) 788-1200</p> <p>24 <i>Attorneys for Defendants Infineon Technologies</i></p> <p>25 <i>North America Corp. and Infineon Technologies AG.</i></p>	<p>26 HOWARD M. ULLMAN ORRICK, HERRINGTON & SUTCLIFFE LLP The Orrick Building 405 Howard Street San Francisco, CA 94105-2669</p> <p>27 ROBERT FREITAS Orrick, Herrington & Sutcliffe LLP 1000 Marsh Road Menlo Park, CA 94025-1021</p> <p>28 <i>Attorneys for Defendants Nanya Technology Corporation and Nanya Technology Corporation USA</i></p>

STIPULATION AND [PROPOSED] ORDER REGARDING STAY OF INDIRECT PURCHASER PROCEEDINGS
 BEFORE THIS COURT PENDING NINTH CIRCUIT REMAND

ATTESTATION OF FILING

Pursuant to General Order No. 45 § X (B), I hereby attest that I have obtained concurrence in the service and filing of this Motion with electronic signatures from all of the parties listed in the signature blocks above.

/s/ Joel S. Sanders

Joel S. Sanders

[PROPOSED] ORDER

Pursuant to the Stipulation of the parties, **IT IS HEREBY ORDERED:**

1. All proceedings in the indirect purchaser actions before this Court shall continue to be stayed during the period of time the United States Court of Appeals for the Ninth Circuit is considering the Indirect Purchaser Plaintiffs' appeal.

2. Within 45 days of the Ninth Circuit's remand, the parties shall jointly submit to the Court for approval, a schedule for briefing of the class certification motion.

Dated: , 2008

**The Honorable Phyllis J. Hamilton
United States District Court Judge**

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